



C.R.P.(MD)No.2314 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.2314 of 2022

Albonze

...Petitioner

Vs.

1.U.Saminathan
2.U.Rajendran
3.U.Kottaisamy
4.U.Manthakalai
5.U.Kubendran
6.U.Pavun
7.S.Murugavel
8.N.Sellam

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the Fair and Decreetal Order passed in I.A.No.3 of 2021 in O.S.No.159 of 2021, on the file of the District Munsif Court, Uthamapalayam, dated 07.06.2022 and allow the Civil Revision Petition.

For Petitioner : Mr.J.Sanjey Vignesh

For Respondents 1 to 7 : Mr.Anand C.Rajesh

For Respondent No.8 : No Appearance



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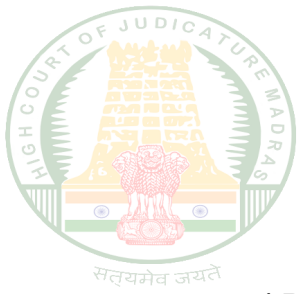
ORDER

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This petition has been filed seeking to set aside the Fair and Decretal Order passed in I.A.No.3 of 2021 in O.S.No.159 of 2021, on the file of the District Munsif Court, Uthamapalayam, dated 07.06.2022.

2.Learned Counsel for the petitioner would submit that the petitioner is the plaintiff in O.S.No.159 of 2021. During the pendency of the suit, the petitioner filed an application in I.A.No.3 of 2021, for appointment of Advocate Commissioner to find out whether there is any pathway lying in S.No.272, in the suit schedule property and the same was dismissed by the trial Court. Challenging the same, the present Civil Revision Petition has been filed.

3.Learned Counsel for the petitioner would submit that admittedly, the petitioner filed a suit for permanent injunction as against the respondents and the respondents filed written statement saying that there is a common pathway leading to the suit schedule property and in view of the above, in order to find out whether pathway is running in the suit schedule property, it is necessary to appoint an Advocate Commissioner and the said request was negated by the trial Court. Accordingly, he prays for appropriate orders.

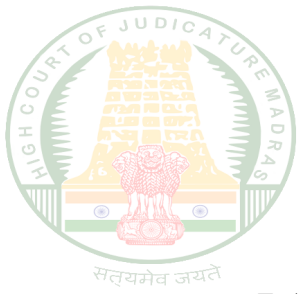


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4.Per contra, learned Counsel for the respondents would submit that in order to find out the existence of the pathway, the same can be canvassed before the trial Court by marking revenue records and title deeds, for which there is no necessity of appointment of Advocate Commissioner and the trial Court has rightly rejected the said petition and prays for dismissal of this Civil Revision Petition.

5.Heard the learned Counsel on either side.

6.Admittedly, the facts in the present case are not in dispute. The only issue that arises for consideration is whether there is existence of pathway or not. As rightly contended by the learned Counsel for the respondents, the existence of pathway can very well be canvassed before the trial Court by marking the revenue records and title deeds. Hence, there is no necessity for appointment of Advocate Commissioner. The said issue has been rightly adjudicated by the trial Court and the trial Court has rightly dismissed the petition for appointment of Advocate Commissioner filed by the petitioner. Hence, this Court finds no reason to interfere with the order of the trial Court.



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7. Accordingly, this Civil Revision Petition stands dismissed, with liberty to the petitioner to mark relevant documents before the trial Court. There shall be no order as to costs.

07.08.2025

Internet: Yes/No

Index: Yes/No

MR



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To

- 1.The District Munsif Court,
Uthamapalayam.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

MR

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